

The following letter is in response to both letters received from Ms. Jodi Winship, dated September 13, 2006. The first letter from Ms. Winship references Amended Mid-Year Report (1/1/05-6/30/05), received 7/14/06; April Monthly Report (3/1/06-3/31/06); and July Monthly Report (6/1/06--6/30/06). The second letter references the Amended October Quarterly Report (7/1/03-9/30/03), received 10/28/03.

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October 16, 2006

Jodi Winship, Senior Campaign Finance Analyst  
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Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

FEC ID: C00028860

Subject: RAD letter dated September 13, 2006, citing Amended Mid-Year Report (1/1/05-6/30/05), received 7/14/06; April Monthly Report (3/1/06-3/31/06); July Monthly Report (6/1/06--6/30/06)

Dear Ms.Winship:

This law firm represents the American Federation of Teachers ("AFT"), AFL-CIO, Committee on Political Education ("AFT PAC") and, as counsel to AFT PAC, we submit this response in reference to your September 13 letter and the AFT PAC reports cited therein. In general, your inquiry poses questions regarding the status of AFT PAC as a collecting agent for AFL-CIO COPE PCC, and whether AFT PAC has performed its collecting agent functions in a lawful manner.

The American Federation of Teachers, AFL-CIO, is a labor organization, and is the connected organization of AFT PAC, which is a qualified multi-candidate committee with a long history of filing periodic reports with the Commission. AFL-CIO COPE PCC is also a FEC-registered political committee with the connected organization, American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"). The AFL-CIO is a federation comprised of international and national labor organizations, and AFT is one of several national labor organizations holding affiliation with the AFL-CIO.

Commission regulations are quite explicit that AFT may function as the collecting agent for AFT PAC since it is the connected organization of AFT PAC. 11 C.F.R. 102.6(b)(1)(i), 102.6(b)(1)(ii). The regulations are equally explicit that AFT PAC may function as a collecting agent for AFL-CIO COPE PCC. In part, they provide that a "collecting agent may be a national union collecting contributions on behalf of the separate segregated fund of any federation with which

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the national union is affiliated." 11 C.F.R. 102.6(b)(1)(iv). Moreover, the regulations also make clear that a collecting agent "is an organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related." 11 C.F.R. 102.6(b)(1) [emphasis added].

Given the cited collecting agent regulations and the described relationships between AFT and AFL-CIO as well as their respective political committees, which are both separate segregated funds under 11 C.F.R. 114.5, it is clear that the contribution collection and transmittal process and procedures used by AFT PAC are in full compliance with FEC rules and the underlying Federal statutes. Similarly, the procedures followed by AFL-CIO COPE PCC when it receives periodic transmittals of collected contribution funds from AFT-PAC are also in full compliance with FEC rules. Indeed, AFT PAC has utilized virtually the same procedures for collecting and transmitting contribution funds to COPE PCC for over 23 years, since the Commission's current collecting agent rules were promulgated in 1983. It is further our belief that very similar, if not identical, procedures have been used since 1972, when the FECA of 1971 became effective. To the best of our knowledge neither the Reports Analysis Division, the General Counsel of the Commission, nor the Commission itself, have ever interposed any legal objections or made negative insinuations about the AFT PAC collecting agent process, until the subject inquiry.

In short, AFT acting through AFT PAC is a dual collecting agent that receives and transmits combined contributions made by the solicitable class of AFT to both AFT PAC and AFL-CIO COPE PCC. Furthermore, unlike the collecting agent fact pattern wherein the collecting agent does not register and report as a political committee with the FEC (as permitted under 11 C.F.R. 102.6(b)(2)), AFT PAC files reports with the FEC on a monthly basis in federal election years and semi-annual reports in other years. Thus, all contributions it collects, whether retained for itself or transmitted forward to AFL-CIO COPE PCC, are deposited in its campaign depository and disclosed fully to the Commission, including the itemization of donors who have contributed over \$200 in a calendar year.

To demonstrate that AFT PAC has acted in a lawful manner that complies with Commission regulations governing collecting agents, we now turn to an analysis and explanation of the collecting agent transactions included on the subject AFT PAC reports cited in your inquiry.

Your inquiry specifically focuses on contribution proceeds (\$200,000) that were transmitted by AFT PAC, as a collecting agent, to AFL-CIO COPE PCC on March 28, 2005. It also cites contribution proceeds, obtained as a collecting agent, that were transmitted by and to the same committees respectively, on two other dates: \$200,000 on March 22, 2006, and \$100,000 on June 23, 2006. In each of these transactions, the funds collected by AFT PAC in the form of unitemized contributions from thousands of its members were in vastly larger sums than the transmittals to COPE PCC. For example, in March 2006 when AFT PAC transmitted \$200,000 of collecting agent, contribution proceeds to COPE PCC, it had also received in that same month, over \$421,000 of unitemized contributions from its solicitees. Similarly with respect to its June 2006 transmittal of collecting agent contribution proceeds in the amount of \$100,000, AFT PAC had received over \$344,000 of unitemized contributions in that same month. (See chart enclosed.) As already indicated, as a reporting federal political committee, AFT PAC had fully disclosed all of those contributions in accordance with Commission regulations at 11 C.F.R. 104.3(a) [requiring separate line entries for itemized and unitemized contributions, and contributor identification when any individual's annual aggregate of contributions exceeds \$200].

The collecting agent regulations require no more disclosure of contributions made via the collecting agent process than the disclosure required by 11 C.F.R. 104.3(a). The relevant regulation is 11 C.F.R. 102.6(c)(7) which requires the committee (separate segregated fund) receiving collecting agent contribution proceeds to "report the full amount of each contribution received as a contribution from the original contributor to the extent required by 11 CFR 104.3(a)." (emphasis added) In the circumstances presented here, where AFT PAC is a dual collecting agent receiving combined contributions for both itself and COPE PCC, and where AFT PAC reports such contributions in full compliance with 11 C.F.R. 104.3(a), there is no legal basis for your office to expect that AFT PAC or COPE PCC should replicate the same contributor disclosure information with respect to some lesser portion of the same contribution proceeds. That is not required by Commission regulations, and those regulations obviously are binding on your office.

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Finally, it may be useful to the further consideration of the subject inquiry by your office, if we summarize the history and purpose of the collecting agent process in the special context of labor organizations and federations of labor organizations, as it was first recognized by Congress and then implemented by the Commission in carrying out Congressional intent going back to 1976 and 1979.

In 1976, when Congress substantially amended the Federal Election Campaign Act of 1971, as amended in 1974, it enacted additional contribution limits that apply when one PAC makes contributions to another unaffiliated PAC. It also adopted the so-called "anti-proliferation" provisions, which assured that political committees affiliated with each other could not make proliferated contributions to the same federal candidates. Instead, such committees had to share a single set of limits when they made contributions to the same federal candidate. Political committees with sponsorship by corporations and labor unions, and by federations of those entities, were particularly identified in the 1976 legislative history. The application of the "anti-proliferation" provisions to them was explained by Congress in the legislative history, and then Commission regulations implemented that intent. Page 58, U.S. House of Representatives, Conference Report No. 94-1057 [FECA Amendments of 1976].

Most relevant to this matter, the relevant legislative history indicates that all the PACs sponsored by AFT and its state or local affiliates are affiliated with each other and share a single set of contribution limits. Id. Further, all the PACs sponsored by the AFL-CIO and any of its state central bodies or local affiliates are affiliated with each other and share a single set of contribution limits. These anti-proliferation rules are codified in Commission regulations at 11 C.F.R. 100.5(g)(3) [affiliated committees sharing a single limit include a single national union and its locals; another single limit is shared by an organization of national unions and all its state and local central bodies].

Even though, by application of these rules, AFT PAC and AFL-CIO COPE PCC are per se not affiliated, there is another provision in the same section of FECA that gives an explicit exception to the general contribution limits that usually apply when one PAC contributes to another PAC. That exception provides that the PAC-to-PAC contribution limits do not apply "to transfers between political committees of funds raised through joint fundraising efforts." 2 U.S.C. 441a(a)(5)(A). As explained in the legislative history, the cited contribution limit rules "permit political committees which solicit contributions in their joint names, and on the understanding that the money collected through that joint fundraising effort will be divided among the participating committees, to make such a division." Page 58, U.S. House of Representatives, Conference Report No. 94-1057 [FECA Amendments of 1976].

Some three years later, in the 1979 Amendments to the FECA, Congress through legislative history further clarified the process for receiving and reporting such jointly raised contributions, referring to it as political fundraising by collecting agents. The primary concern addressed by Congress was to assure that local entities with national or parent organizations could raise otherwise legal contributions from their local members for federal election purposes, and then send those proceeds up to the national organization which entity had formed and maintained a registered federal PAC. Local affiliates of national or international labor organizations were explicitly mentioned by Congress in this history, with particular emphasis on allowing those local entities to solicit, receive and forward lawful contributions to their national PAC, without requiring the local entity to register and report to the Commission as a political committee. See 125 Cong. Rec. S19099 (daily ed. December 18, 1979) and 125 Cong. Rec. H12365 (daily ed. December 20, 1979) [floor statements by committee chairmen in Senate and House, respectively].

FEC rulemaking to implement the 1979 legislation was initiated in 1981 and final rules were promulgated in 1983. These collecting agent regulations give primary focus to insulating the local collecting agents from FEC reporting, if certain conditions and procedures are satisfied. Indeed, the entire framework of those regulations presumes that a collecting agent will seek to avoid FEC registration and reporting in most cases. As explained, however, the regulations also permit a collecting agent to be a registered and reporting political committee. They further allow a collecting agent to function as such when soliciting and receiving contributions for more than one PAC or separate segregated fund.

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The AFT PAC has performed its collecting agent functions for itself and for COPE PCC as a registered political committee that files regular reports with the Commission. As such a dual collecting agent, AFT PAC has received combined contributions and has processed those contributions through its federal account depository, and has reported them to the Commission, with full itemization of those very few contributors whose aggregate annual contributions exceeded \$200. (Less than 1.4% of total contributions thru 6/30/2005 and less than 0.70% in March and June 2006.) It maintains all required records for all contributions it receives and keeps those records for the requisite three-year period. Given its status as a reporting political committee and its compliance with the collecting agent regulations as regards the activity cited in your inquiry, AFT PAC has lawfully made transfers of collecting agent proceeds to AFL-CIO COPE PCC, and those proceeds have been reported by both committees to the extent required by Commission regulations.

Accordingly, we have advised our client, AFT PAC, that no changes or revisions are needed to the collecting agent process and procedures it has followed since at least 1983, without objection by the Commission. Furthermore, it is our belief that these procedures or others materially the same have been followed by AFT PAC since 1972, when the FECA of 1971 became effective.

Thank you for your further consideration.

Yours truly,

Oldaker, Biden and Belair, LLP

By: \_\_\_\_\_/sig/\_\_\_\_\_  
William C. Oldaker

\_\_\_\_\_/sig/\_\_\_\_\_  
N. Bradley Litchfield

Below is the comparison information referenced in the above letter. We did our best to copy and paste the information, but were informed by our FEC finance analyst that it is not possible to attach excel tables. Therefore we will also be mailing a hard copy of this attachment.

Reports, , Itemized Contributions , , Unitemized Contributions, , Itemized Contributions Percentage, , Transfer to  
AFL-CIO COPE, , Date of Transfer

Amended Mid-Year Report (1/1/05 - 6/30/05), , \$25,521.50, , \$1,840,681.69, , 1.37%, , \$200,000.00, , 3/28/2005  
April Monthly Report (3/1/06 - 3/31/06), , \$680.00, , \$421,567.54, , 0.16%, , \$200,000.00, , 3/22/2006  
July Monthly Report (6/1/06 - 6/30/06), , \$2,370.00, , \$344,343.46, , 0.68%, , \$100,000.00, , 6/23/2006  
Amended Year-End Report (7/1/05 - 12/31/05), , \$48,996.50, , \$1,847,992.98, , 2.58%, , None, , None

February Monthly (1/1/06 - 1/31/06), , \$0.00, , \$218,248.31, , , , , ,  
March Monthly (2/1/06 - 2/28/06), , \$0.00, , \$497,838.72, , , , , ,  
April Monthly (3/1/06 - 3/31/06), , \$680.00, , \$421,567.54, , , , , ,  
May Monthly (4/1/06 - 4/30/06), , \$1,030.00, , \$371,613.84, , , , , ,  
June Monthly (5/1/06 - 5/31/06), , \$1,430.00, , \$338,879.85, , , , , ,  
July Monthly (6/1/06 - 6/30/06), , \$2,370.00, , \$344,343.46, , , , , ,

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Total Unitemized Contributions (Jan - June '06), , , , \$2,192,491.72, , , , ,

Estimated monthly rate of unitemized for 2006, , , , \$365,415.29, , , , ,

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